

REMARKS/ARGUMENTS

Claims 1-7 and 10-12 are pending.

In this Amendment, Applicants have amended claims 1 and 3 and cancelled claims 8-9 and non-method claims 13-30 from further consideration in this application. Applicants are not conceding that the subject matter encompassed by claims 1-30 prior to this Amendment is not patentable over the art cited by the Examiner. Claims 1 and 3 were amended and claims 13-30 were cancelled in this Amendment solely to facilitate expeditious prosecution of the pending claims. Applicants respectfully reserve the right to pursue claims, including the subject matter encompassed by claims 1-30 as presented prior to this Amendment and additional claims, in one or more continuing applications.

Claims 13-24 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. Applicants respectfully traverse, but, in order to expedite prosecution, Applicants have cancelled claims 13-24. Thus, Applicants respectfully submit that the rejection is moot.

Claims 1-2, 6-11, 13-14, 18-23, 25-26, and 29-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Leong et al. (US 2003/0182503). Applicants respectfully traverse, but, in order to expedite prosecution, Applicants have amended claim 1. Claims 13-14, 18-23, 25-26, and 29-30 have been cancelled, and the rejection is moot as to these cancelled claims.

Anticipation requires that the identical invention must be shown in a single reference in as complete detail as is contained in the claims. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Amended claim 1 describes a cluster, allocating reserved resources to one or more depth levels, wherein the reserved resources form one or more reserved pools; upon receiving a request for allocation of resources, determining a depth level from which to allocate resources by: determining whether the request is remote request from a different cluster or a local request from the cluster; in response to determining that the request is a remote request, determining that the depth level is a next depth level; in response to determining that the request is a local request,

determining that the depth level is a current depth level; and attempting to allocate a reserved pool from the determined depth level (c.g., Specification, paragraphs 31-33; Figures 5A, 5B, and 7).

The Leong patent application, paragraph 111, describes that the resource manager associates each I/O task to one of the pools and allocates any resources needed by a particular I/O task from the pool with which that particular I/L task is associated. This does not anticipate and, instead, teaches away from upon receiving a request for allocation of resources, determining a depth level from which to allocate resources by: determining whether the request is remote request from a different cluster or a local request from the cluster; in response to determining that the request is a remote request, determining that the depth level is a next depth level; in response to determining that the request is a local request, determining that the depth level is a current depth level.

With reference to dependent claims 8 and 9 (which have been cancelled as the subject matter of these claims has been incorporated into independent claim 1), the Examiner cites paragraph 112 of the Leong patent application and submits "wherein a location would be local and another would be remote with respect to specific requests" (Office Action, pages 5-6). Applicants respectfully traverse. The Leong patent application mentions that the resource manager defines . . . a location of that resource type. This does not anticipate determining whether the request is remote request from a different cluster or a local request from the cluster.

Thus, amended claim 1 is not anticipated by the Leong patent application.

Dependent claims 2, 6-7, and 10-11 each incorporate the language of independent claim 1 and add additional novel elements. Therefore, dependent claims 1-2, 6-7, and 10-11 are not anticipated by the Leong patent application for at least the same reasons as were discussed with respect to claim 1.

Claims 3 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leong et al. (US 2003/0182503) in view of Morrison et al. (2003/0110416). Applicants respectfully traverse, but, in order to expedite prosecution, Applicants have amended claim 3. Claim 15 has been cancelled, and the rejection is moot as to this cancelled claim.

The Morrison patent application does not cure the defects of the Leong patent application with reference to claim 1. Thus, Applicants respectfully submit that amended claim 1 is not taught or suggested by the Leong or Morrison patent applications, either alone or in combination. Dependent claim 3 incorporates the language of independent claim 1. Therefore, dependent claim 3 is not taught or suggested by the Leong or Morrison patent applications, either alone or in combination, for at least the same reasons as were discussed with respect to claim 1.

In addition, amended claim 3 describes at the first cluster, waiting for a second cluster to finish initialization processing that allocates reserved resources of the second cluster to each of multiple depth levels before allowing requests for resources to be processed at the first cluster (e.g., Specification, paragraphs 23-27; Figures 2A and 2B).

Claims 4-5, 12, 16-17, 24, and 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leong et al. (US 2003/0182503) in view of Singh et al. (U.S. 6,625,159). Applicants respectfully traverse. Claims 16-17, 24, and 27-28 been cancelled, and the rejection is moot as to these cancelled claims.

The Singh patent does not cure the defects of the Leong patent application with reference to claim 1. Thus, Applicants respectfully submit that amended claim 1 is not taught or suggested by the Leong patent application or the Singh patent, either alone or in combination.

Dependent claims 4-5 and 12 incorporate the language of independent claim 1. Therefore, dependent claims 4-5 and 12 are not taught or suggested by the Leong patent application or Singh patent, either alone or in combination, for at least the same reasons as were discussed with respect to claim 1.

Conclusion

For all the above reasons, Applicants submit that the pending claims are patentable. Should any additional fees be required beyond those paid, please charge Deposit Account No. 09-0449.

The attorney of record invites the Examiner to contact her at (310) 553-7973 if the Examiner believes such contact would advance the prosecution of the case.

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